

intellectual property, trade secrets, marketing, sales, financial, operating, performance, business and process information and data, know-how, and computer programs and other software and software techniques made available to one party of this Agreement to the other party pursuant to the terms of this Agreement. Confidential Information shall not be provided to a party unless such Confidential Information is expressly offered by the party possessing the Confidential Information (the "Disclosing Party"), which Confidential Information shall be identified as "Confidential Information" by being marked as such prior to the disclosure by the Disclosing Party. The party to whom the disclosure is made (the "Recipient Party") shall have an opportunity to accept or decline receipt of the Confidential Information. The Recipient Party shall accept information as Confidential Information by one or more individuals who have been designated by the Recipient Party as being persons who are authorized to receive Confidential Information, marking on a duplicate copy of the Confidential Information that the Confidential Information transferred to the Recipient Party is accepted by the Recipient Party as Confidential Information. If the Confidential Information is disclosed verbally, then the disclosure of such Confidential Information shall be reduced to writing within ten (10) days after such disclosure and shall be marked as Confidential Information and accepted or declined in the manner set forth in the preceding sentences. "Confidential Information" shall not include such portions of Confidential Information that: (1) become generally available to the public other than as a result of a disclosure by a Recipient Party or its agents, representatives or employees; (2) become available to a Recipient Party on a nonconfidential basis from a source (other than the other party to this Agreement or its agents) which is not prohibited from disclosing such information to the Recipient Party by a legal, contractual or fiduciary obligation; (3) are in the public domain prior to the disclosure; (4) are lawfully in possession of the Recipient Party prior to the disclosure; (5) become part of the public domain by publication or otherwise through no unauthorized act or omission on the part of the Recipient Party; (6) are independently developed by an employee of the Recipient Party with no access to such confidential information; (7) are required to be disclosed by law or court order; or (8) are transmitted by the Disclosing Party after receiving notification by the Recipient Party that the Recipient Party does not desire to receive the Confidential Information. (c) Survival. The covenants regarding confidentiality in this Section 8 shall survive the termination of this Agreement.

9. **Value Share.** Member acknowledges that the entities which provide genetics in connection with the Triumph Program have requested, or may request, to share in the benefits of the proven captured benefit of certain genetic improvements and technological breakthroughs related to production performance in the Herds. For purposes of this Agreement, the term "Value Share Basis" means the sharing of the "captured proven benefit" of an improvement in lines or a technological breakthrough elected for use by Triumph and Member.

(A) Captured Proven Benefit of Quantitative Improvement In Lines. The "captured proven benefit" of a quantitative improvement in lines means the difference between the net value of the improvement as compared to that of the next best alternative line of genetic material. The net value of an improvement is its value less cost of acquisition.

(i) Quantitative Improvements Offered as Part of Triumph Genetic Fee. Quantitative improvements offered as part of the Triumph Genetic Fee include quantitative improvements in lines achieved through ordinary selection methods or similar methods, and include similar developments in the ordinary course of genetic improvement which are not quantitative improvements, all of which are offered as part of the Triumph Genetic Fee.

(ii) Quantitative Improvements Offered on Value Share Basis. Quantitative improvements offered on a Value Share Basis include quantitative improvements in lines achieved other than through ordinary selection or similar methods, and include other developments made other than in the ordinary